

December 01, 2011

CLERK, U.S. BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA

0003932223

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UNITED STATES BANKRUPTCY COURT

EASTERN DISTRICT OF CALIFORNIA

SACRAMENTO DIVISION

IN RE:

SK FOODS, L.P., A CALIFORNIA LIMITED
PARTNERSHIP,

DEBTOR.

Case No. 09-29162-D-11

Chapter 11

BRADLEY D. SHARP, et al.,

Plaintiff,

vs.

SSC FARMS I, LLC, et al.,

Defendants.

AP NO. 09-2692

DCN: SH-5

**ORDER HOLDING THE FOLLOWING
ENTITIES AND INDIVIDUALS IN
CONTEMPT FOR VIOLATION OF
PRELIMINARY INJUNCTION: SSC
FARMING, LLC; ROBERT PRUETT;
COLLINS & ASSOCIATES; AND CARY
COLLINS**

Date: November 30, 2011

Time: 10:00 am

Place: Dept. D, 6th Floor, Courtroom 34
501 I Street, Sacramento, CA

Judge: Hon. Robert S. Bardwil

CAPTION CONTINUED ON NEXT PAGE

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December 01, 2011

CLERK, U.S. BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
0003932223HOLDING SSC FARMING, LLC; R. PRUETT; COLLINS & ASSOCIATES; & C. COLLINS IN
CONTEMPT FOR VIOLATION OF PRELIMINARY INJUNCTION

1 BRADLEY D. SHARP, et al.) **AP NO. 10-2014**
2) **DCN: SH-3**
3 Plaintiff,)
4 vs.)
5 SCOTT SALYER as trustee of the Scott Salyer)
6 Revocable Trust, et al.,)
7 Defendants.)

8 BRADLEY D. SHARP, et al.,) **AP NO. 10-2016**
9) **DCN: SH-3**
10 Plaintiff,)
11 vs.)
12 SKF AVIATION, LLC, et al.,)
13 Defendants.)

14 The Court having considered the Motion for Order Holding the Following Entities and
15 Individuals in Contempt for Violation of Preliminary Injunction: SSC Farming, LLC; Robert
16 Pruett; Collins & Associates; and Cary Collins (the "Motion"), filed on October 21, 2011, by
17 Plaintiff Bradley D. Sharp, the duly appointed and acting Chapter 11 Trustee (the "Trustee") of
18 SK Foods, L.P. and RHM Industrial Specialty Foods, Inc. d/b/a Colusa County Canning Co.
19 (collectively, the "Debtors"), together with all of the documents filed in support of the Motion,
20 in opposition to the Motion, and in reply to the opposition, and having heard the arguments of
21 counsel at the hearing, and good cause appearing for the reasons set forth in the Court's Civil
22 Minutes (Dkt. No. 417 in AP No. 09-02692; Dkt. No. 347 in AP No. 10-02014; and
23 Dkt. No. 342 in AP No. 10-02016), which are incorporated herein by this reference,

24 IT IS HEREBY ORDERED THAT:

- 25 1. The Motion is granted in part, as set forth herein.
- 26 2. The Court holds defendant SSC Farming, LLC, Robert Pruett, the manager of
27 SSC Farming, LLC, Collins & Associates, and Cary Collins (collectively, "Respondents") in
28 contempt for violating the Preliminary Injunction dated March 20, 2010, as modified six times

1 on October 13, 2010, January 20, 2011, February 16, 2011, May 1, 2011, May 10, 2011 and
2 September 2, 2011 (collectively, the “Preliminary Injunction Orders”).

3 3. The Court finds that the Trustee has shown by clear and convincing evidence
4 that Respondents repeatedly violated specific and definite orders of this Court of which they had
5 actual notice.

6 4. The Court finds that Respondents Collins & Associates, Cary Collins and Robert
7 Pruet, who are not parties to these adversary proceedings and who are not specifically named in
8 the Preliminary Injunction Orders, were the agents of SSC Farming and that they aided and
9 abetted SSC Farming in violating the Preliminary Injunction Orders; thus, they were in active
10 concert or participation with SSC Farming, an entity that was specifically restrained by the
11 Preliminary Injunction Orders. As such, they are also subject to being held in contempt for
12 violation of the Preliminary Injunction Orders.

13 5. The Court finds that Respondents’ violations of the Preliminary Injunction
14 Orders were more than technical or de minimis and that Respondents did not substantially
15 comply with those Orders.

16 6. The Court finds that Respondents’ conduct in violation of the Preliminary
17 Injunction Orders was not based on any good faith or reasonable interpretation of those Orders.

18 7. As a result of the foregoing finding of contempt, it is ordered that the
19 Respondents shall have until 5:00 p.m. on December 9, 2011, to restore the following amounts
20 to the separate account in which Defendants have deposited Sales Proceeds,¹ specifically,
21 Account No. 560165702 at Metro United Bank, held in the name of Defendant SSC Farming,
22 LLC (sometimes referred to as the “Sales Proceeds Account” or the “blocked account”):

23 (a) The \$10,342.98 paid to Richard Johns, and

24 (b) The \$15,000.00 paid to Scott Salyer.


27 ¹ Capitalized terms not otherwise defined herein shall have the same meaning that they
28 have been given in the Preliminary Injunction Orders.

8. If Respondents do not do make the payment set forth in the preceding paragraph by the deadline set forth, then, they will be sanctioned in the amount of amount of \$1,000 per day until they comply. Respondents will be jointly and severally liable for this sanction.

9. The Motion is otherwise denied without prejudice. The Court will defer to the time of trial consideration of the issue of whether, as additional compensation for the foregoing contempt, the Court should award the Trustee (a) professional fees (both his and his counsel's) that were incurred in connection with the investigation and bringing of the Motion, and/or (b) reimbursement to the Sales Proceeds Account of the monies paid to Cary Collins and/or Collins & Associates for preparation of the Accountings pursuant to the Preliminary Injunction Orders.

10. The Court's ruling is also without prejudice to the Trustee bringing additional motions for contempt based on conduct not covered by the Motion, including but not limited to conduct discovered by the Trustee after the filing of this Motion and referenced in the Trustee's Reply.

Dated: December 01, 2011


Robert S. Bardwil, Judge
United States Bankruptcy Court

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CERTIFICATE OF SERVICE

I, Mayra Padilla, declare:

I am employed in the City and County of San Francisco, State of California, in the office of a member of the bar of this court, at whose direction the service was made. I am a citizen of the United States, over the age of eighteen (18) years, and not a party to or interested in the within-entitled action. I am an employee of Schnader Harrison Segal & Lewis LLP, and my business address is One Montgomery Street, 22nd Floor, San Francisco, CA 94104.

On the date below, I served the following documents:

➤ **ORDER HOLDING THE FOLLOWING ENTITIES AND INDIVIDUALS IN CONTEMPT FOR VIOLATION OF PRELIMINARY INJUNCTION: SSC FARMING, LLC; ROBERT PRUETT; COLLINS & ASSOCIATES; AND CARY COLLINS**

- ☒ By electronic service. Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent on December 1, 2011, to the persons at the electronic notification addresses listed below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

Counsel to Scott Salyer, as Trustee of the Scott Salyer Revocable Trust; SKPM Corp.; SK Foods, LLC; SKF Canning, LLC; The Scott Salyer Revocable Trust; Blackstone Ranch Corporation; Monterey Peninsula Farms; Salyer Management Company, LLC; SK Farms Services, LLC; SK Frozen Foods, LLC; SS Farms, LLC; SSC Farming, LLC; SSC Farms I, LLC; SSC Farms II, LLC; SSC Farms III, LLC; SKF Aviation, LLC; CSSS, LP *dba* Central Valley Shippers; and Robert Pruett in His Capacity as Manager of SSC Farming, SSC Farms I and SSC Farms II

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Additional Parties on Next Page

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U.S. Trustee Counsel

Judith C. Hotze
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**Counsel to CSSS, LP
d/b/a Central Valley Shippers**

Larry J. Lichtenegger
Lichtenegger Law Office
lawyer@mbay.net

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on December 1, 2011, at San Francisco, California.

/s/ Mayra Padilla

Mayra Padilla